

Membership Balance Plan
Inland Waterways Users Board

Agency: Department of Defense (DoD)

1. Authority: The Secretary of Defense, under the provisions of 33 U.S.C. § 2251, the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), and 41 C.F.R. § 102-3.50(a), established the Inland Waterways Users Board (“the Board”).
2. Mission/Function: The Board, under the provisions of 33 U.S.C. § 2251 and FACA, shall provide independent advice and recommendations to the Secretary of Defense and the Department of the Army on matters relating to construction and rehabilitation priorities and spending levels on the commercial navigation features and components of the U.S. inland waterways and inland harbors.
3. Points of View: Board members, as determined by the Department of Defense (DoD), shall be representative members and, under the provisions of 33 U.S.C. § 2251(a), the Board shall be composed of eleven members.

Based upon the Secretary of the Army’s recommendation, the Secretary of Defense shall invite primary commercial users and shippers of the inland and intracoastal waterways to serve on the Board. Commercial users and shippers invited to serve on the Board shall designate an individual, subject to Secretary of Defense approval, to represent the organization’s interests.

The DoD, when considering prospective users and shippers to be represented on the Board, shall ensure selections represent various regions of the country and a spectrum of the primary users and shippers utilizing the inland and intracoastal waterways for commercial purposes. Due consideration shall be given to assure a balance among the members based on the ton-mile shipments of the various categories of commodities shipped on inland and intracoastal waterways.

In accordance with the Board’s authorization, members will represent a balance of primary user and shippers on the inland and intra-coastal waterways, including at least one representative of each of the following:

- a) Region One: Upper Mississippi River
- b) Region Two: Lower Mississippi River
- c) Region Three: Ohio River
- d) Region Four: Gulf Intra-coastal Waterway – West
- e) Region Five: Gulf Intra-coastal Waterway – East
- f) Region Six: Columbia-Snake River System

Balance also will be maintained between shippers and carriers, as well as among a range of commodities (e.g., farm and food products, petroleum and petroleum products, primary metals and minerals products, etc.) and a range of ton-miles of cargo moved on the waterways.

In addition to the primary users and shippers invited by the Secretary of Defense, the Secretary of the Army shall designate, and the Secretaries of Agriculture, Transportation, and Commerce may each designate, a representative to act as an observer of the Board. These observers, who have no voting rights, shall each be a full-time or permanent part-time employee of his or her respective agency, and may participate in Board discussions when technical information on their respective agencies is

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requested by the Board.

4. Other Balance Factors: None.
5. Candidate Identification Process: The Department of the Army, as part of its process for initially identifying potential candidates, carefully reviewed the feasibility of developing a rotational list for ensuring balance representation among the primary users and shippers, but came to the conclusion that user/shipper proprietary information and the sheer number of primary users/shippers made such an effort impractical. The Department of the Army has instead determined that it will work to ensure balanced representation among the primary users and shippers through the following process:
 - a) The U.S. Army Corps of Engineers (“the Corps of Engineers”) solicits nominations for the Board’s members through the Federal Register whereby organizations, companies or individuals can nominate companies (primary users/shippers) as potential Board members. The Corps of Engineers performs additional outreach by posting the notice as a pdf file on the Board’s public website and by announcing the request at Board meetings and to other interested parties through inland waterways associations.
 - b) The Corps of Engineers reviews the group of nominees in its entirety and then uses a decision matrix to array each company to determine whether it meets one or more of the statutory membership requirements.
 - c) The Corps of Engineers eliminates from consideration any company that does not meet at least one of the statutory membership requirements.

The Assistant Secretary of the Army (Civil Works) then recommends those organizations that provide a broad representation of commercial users and shippers, regions, commodities, and ton-miles of cargo moved on the waterways. Those users or shippers then designate who will represent the organization’s interest on the Board. Primary users and shippers may be represented on the Board for a two-year term of service and may request to be considered for a second consecutive term of service. No primary user or shipper may serve more than two consecutive terms of service (total of four years) without a break of at least two years, unless approved by the Secretary of Defense.

Prior to the formal nomination, the list of potential organizations and the individual designated to represent each organization undergoes a review by the Department of Defense Office of General Counsel and the Office of the Advisory Committee Management Officer to ensure compliance with federal and DoD governance requirements, including compliance with the Board’s charter and the membership balance plan. Following this review the Secretary of the Army formally nominates the potential organizations and their designated individuals to the Secretary of Defense for approval. Pursuant to DoD policy only the Secretary of Defense and the Deputy Secretary of Defense can invite or approve the appointment of individuals to advisory committees established or supported by the Department of Defense.

Should vacancies occur, an early selection process may be initiated in accordance with procedures listed above for selection of representatives.

6. Subcommittee Balance: DoD, when necessary and consistent with the Board’s mission and DoD policies and procedures, may establish subcommittees, task forces, or working groups to support the Board. At this time, the Board does not have any subcommittees and subcommittee membership balance is inapplicable.

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7. Other: As nominees are considered for appointment to the Board, the DoD adheres to the Office of Management and Budget's Final Guidance on Appointment of Lobbyists to Federal Boards and Commissions (76 FR 61756; October 5, 2011) and the rules and regulations issued by the Office of Government Ethics.
8. Date Prepared: April 19, 2013